IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :34412 of 1998

Dated: 22nd November 2007.

Between:

The Depot manager, A.P.S.R.T.C. Bus Depot, Zaheerabad, Medak District.

..... PETITIONER

AND

Balram, S/o Shri Narsimhulu, Dhanwad, District Mahabubnagar and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.NO.34412 OF 1998

ORAL ORDER:

The workman, who initially joined the service of the A.P.S.R.T.C., (for short 'the Corporation') as a cleaner, came to be promoted on temporary basis as a conductor. While he was conducting the bus bearing registration No. AEZ 4075, it had been subjected to a surprise check on 08-12-1993. The checking officials have found that the workman had recycled two tickets of the denomination of Rs.3-50 ps., and hence the Corporation proceeded against him as a measure of discipline and imposed the punishment of removal from service on 25-04-1994. That lis was the subject matter of consideration in I.D.No.65 of 1994 by the Labour Court. The workman had explained the incriminating circumstances against him by stating that when he started conducting the bus at Stage No.1, the bus was so full that 70 passengers have got into the bus and when he has punched the tickets of the denomination of Rs.3-50, two of the passengers, for their own reasons, have preferred not to continue the journey and alighted from the bus at Stage No.1 itself. Consequently, the two tickets of the denomination Rs.3-50 ps, which were already punched for traveling from Stage No.1 to Stage No.6 could not be issued to those two passengers, but were retained with the workman himself. Since, he has already punched those tickets by removing them from the ticket tray, he had entered their details also in the statistical return indicating as if those two tickets also have been issued at Stage No.1, whereas the fact of the matter is

that he has not issued those two tickets, but re-issued those tickets at Stage No.4 when two other passengers have boarded the bus and since the complete fare from such persons cannot be collected as they boarded the bus at Stage No.4, he collected only

Rs.3-00 from them as against the face value of Rs.3-50 ps., of the ticket. The checking officials have corroborated the fact to the extent that the bus was full with good number of passengers, but however, the workman could not satisfactorily explain as to why the two passengers, who never wanted to travel, have, at the first instance, got into the bus, asked for the tickets and then changed their mind and alighted. At any rate, the workman, ought to have cancelled those two punched tickets, instead of recycling them by issuing in favour of such passengers, who boarded the bus at State No.4. Since, there was consistency in the explanation of the workman, the Tribunal found that imposition of punishment of removal from service for the proven misconduct as too harsh and too excessive, therefore, by its award, it directed the Corporation to reinstate the workman and also granted him the benefit of continuity of service and attendant benefits. The Tribunal also directed that the workman be paid 25% of the backwages for the period in which he was kept out employment pursuant to the order of removal dated 25-04-1994. It is this award, which is under challenge in this writ petition instituted by the Management of the A.P.S.R.T.C.

The learned Standing Counsel for the Corporation

would urge that the workman, being a conductor, ought to have accounted for the tickets of the denomination of Rs.3-50 ps., at the first instance at Stage No.1 and ought not to have used them by way of recycling and re-issuing the same to the passengers, who boarded the bus at Stage No.4, which amounts to recycling the tickets, therefore, the irregularity committed by the workman is liable to be held proved beyond all reasonable doubt and for such grave misconduct, the punishment of removal from service is commensurate and reasonable. Per contra, Sri A.K. Jayaprakash Rao, learned counsel appearing for the workman, would contend that a very look at the tickets in question would disclose that they are punched at Stage No.1 for travel up to Stage No.6, whereas, the bus itself has been subjected to the check in between Stage Nos. 4 and 5, therefore, if the workman is to recycle the tickets, the tickets could have been recycled for a journey beyond Stage No.6 or on its return journey, but not when the journey has not reached Stage No.6. Therefore, the very allegation leveled against the workman is unsustainable. Every conductor is liable to collect correct fare from the passengers and then remit the days earnings together with the statement of account for the tickets sold. To ensure that no irregularities take place en-route, statistical returns are required to be filled in at every stage by the conductor. Once entries are made in the statistical return, they reflect the number of tickets sold and the number of tickets remaining unsold. Therefore, once the entry is made indicating the ticket number in the statistical return, it clearly indicates as if the

ticket in question had been sold of. But however, a change of mind on the part of the passenger, who prefers not to continue the journey at all and prefers to alight, cannot be completely ruled out. It is quite probable that the passengers may not be having sufficient means to travel by buying ticket worth Rs.3-50 ps. Therefore, they might have preferred to alight from the bus itself. But however, in such circumstances, the proper course would have been for canceling the tickets in question duly noting the details thereof and reasons for such cancellation so as to prevent any possible recycling of such tickets.

In the instant case, since the tickets have been also punched for Stage No.6, it became clear that the tickets in question have not been retrieved from the passengers for the purpose of recycling later on. But, certainly, the two tickets, which are marked for journey starting from Stage No.1 to Stage No.6 have been re-issued by the workman to the two passengers, who boarded the bust at Stage No.4, which is not a correct or accurate way of issuing tickets. Therefore, to this extent, the workman is certainly guilty of re-issuing the very same tickets, which have been marked and punched for commencing journey at Stage No.1. Therefore, the punishment, which is commensurate to this allegation of misconduct alone, should have been inflicted upon the workman. The punishment of removal from service altogether, perhaps, is not warranted in such circumstances and to this extent the Tribunal is fully justified in substituting

the punishment in ordering for the reinstatement of the workman together with continuity of service, but however, the Tribunal also awarded 25% of the backwages to be paid to the workman. While awarding backwages, great care and concern has to be exercised by the Tribunal. It ought to have looked into the material brought before it to come to the conclusion that the workman concerned could not be employed anywhere in spite of his best efforts in that regard. No attempt has been made by the workman to demonstrate before the Tribunal that he was not gainfully employed either. In such set of circumstances, awarding backwages to the extent of 25% by the Tribunal is not warranted.

The learned counsel for the workman would contend that during the pendency of the writ petition, the petitioner-Corporation paid 50% of the backwages, awarded by the Labout Court and it will be harsh for that money to be allowed to be recovered now by the petitioner-Corporation, for, the workman utilized the same for his own sustenance and meeting various other social obligations.

Taking these aspects into consideration I direct reinstatement of the workman back to duties with continuity of service and while holding that he is not entitled for backwages, but however, such amount of backwages, which have already been paid by the petitioner-Corporation to the workman concerned pursuant to the orders of this Court shall not be recovered at all by the Corporation.

Accordingly, with this, the writ petition stands allowed partly and the award passed by the Tribunal stands modified,

but however, in the circumstances, there shall be no order as to costs.

Nooty Ramamohana Rao, J

mrk

22nd November 2007.